

Geuze and Melief
Serial No.: 09/011,167

The Pending Claims

Claims 2-4, 6 and 13 are pending. Claims 2-4, 6 and 13 are directed to an antigen-presenting vesicle free from its natural surroundings comprising a membrane and an MHC Class I protein.

Claim 9 is directed to an antigen presenting vesicle having a membrane and an MHC class I protein. Claim 9 is supported by Claim 9 of the preliminary amendment filed with the application on February 2, 1998; at page 2, line 25 through page 3, line 1; page 6, lines 3-6, page 11, line 36 through page 12, line 12; and page 8, line 35 through page 9, line 8.

Claim 11 is directed to an antigen presenting vesicle having a membrane and an MHC class I molecule, obtained by the step of recovering a 70,000 x g pellet obtained by differential centrifugation of membrane-containing fractions of cell culture media or lysates of antigen presenting cells containing MHC class I. Claim 11 is supported by Claim 11 of the preliminary amendment filed with the application on February 2, 1998; at page 2, line 25 through page 3, line 1; page 6, lines 3-6, page 11, line 36 through page 12, line 12; and page 8, line 35 through page 9, line 8..

Claim 12 is directed to a purified antigen presenting vesicle having a membrane and an MHC class I molecule, obtained by the step of recovering a fraction having a buoyant density of 1.10 to 1.22 g/ml from a 70,000 x g pellet obtained by differential centrifugation of membrane-containing fractions of cell culture supernatants or lysates of antigen presenting cells containing MHC class I. Claim 12 is supported by Claim 12 of the preliminary amendment filed with the application on February 2, 1998; at page 6, lines 3-6, and at page 9, lines 16-18.

The Advisory Actions

The Examiner did not enter the amendment filed April 17, 2001 on the basis that newly added Claim 14 raised new issues which require further consideration and search. All of the pending claims, including Claims 2-4, 6 and 13, were finally rejected in the Office action dated January 17, 2001 (Paper 16). An Amendment After Final, filed April 17, 2001, in response to the

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final rejection was not entered by the Examiner because, as stated in the Advisory Action mailed May 4, 2001 (Paper 18), newly submitted Claim 14 would raise new issues requiring a new search. These same claim amendments, but without new Claim 14, were re-filed on July 17, 2001. This time, in the Advisory Action mailed August 17, 2001 (Paper 23), they were not entered because they would raise new issues and “Applicants have amended Claims 9, 11-12 to become product by process claims and therefore part of the elected invention is a second after-final amendment when said amendments could have been made earlier”.

Claims 2-4, 6 and 13 remain rejected under 35 U.S.C. 112, first paragraph, enablement.

Amendments:

Applicants have canceled Claim 2 and 10 and amended Claims 9 and 11-13.

Claims 9, 11 and 12 were amended to become product by process claims. These claims now therefore fall within the elected subject matter for this application. Support is found in originally filed Claim 9, and on page 2, line 25 through page 3, line 7; page 8, line 23 through page 9, line 8; and page 11, line 36 through page 12, line 14 of the original specification.

In accordance with the Examiner’s suggestion made in the Office action mailed January 16, 2001, Claim 13 has been amended to recite “an antigen presenting cell”. Support is found on page 5, line 35 through page 6, line 1 of the originally filed specification.

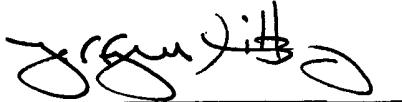
Appellants have canceled Claims 2 and 10 and amended Claim 13 to place this application in form for allowance or in better form for appeal. The amendment to Claims 9 and 11-12 were made earlier but were not entered by the Examiner. The Examiner erred when she stated that “it is not clear why these claims were not amended earlier in prosecution, before the present second after final amendment” (Paper 23, Item 1). In fact, these were the same amendments to Claims 9 and 11-12 that were submitted in the response mailed April 17, 2001 to the Final Rejection and which the Examiner noted but did not enter in the Advisory Action of May 4, 2001 (Paper 18).

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CONCLUSION

No new matter has been introduced by these amendments and no new search is required. In view of these amendments, it is submitted that this application is now ready for allowance. Early notice to that effect is solicited. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned at (650) 328-4400.

Respectfully submitted,



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